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SUPREME COURT, U. S.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1963.

No. 34

BROTHERHOOD OF RAILROAD TRAINMEN,
Petitioner,

vs.

**COMMONWEALTH OF VIRGINIA, ex rel. VIRGINIA
STATE BAR,**
Respondent.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF APPEALS OF
THE COMMONWEALTH OF VIRGINIA.

PROCEEDINGS RELATIVE TO PETITION FOR REHEARING BY THE
COMMONWEALTH OF VIRGINIA EX REL. VIRGINIA STATE BAR.

**MOTION OF AMERICAN BAR ASSOCIATION FOR
LEAVE TO FILE AMICUS CURIAE BRIEF IN
SUPPORT OF PETITION FOR REHEARING BY
VIRGINIA STATE BAR.**

FOR THE AMERICAN BAR ASSOCIATION:
WAYLAND B. CEDARQUIST, Chicago, Illinois,
Of Counsel for This Cause.

REHEARING ALSO URGED BY
FORTY-FIVE STATE BAR ASSOCIATIONS AND
FOUR LOCAL BAR ASSOCIATIONS,
LISTED IN MOTION.

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The American Bar Association respectfully moves this Court pursuant to provisions of Rule 42 (Briefs of *Amicus Curiae*) of the Rules of the Supreme Court of the United States, that Leave be granted to the American Bar Association to file an *Amicus Curiae* Brief in support of the Petition for Rehearing being filed by Commonwealth of Virginia ex rel. Virginia State Bar.

The American Bar Association states that on May 13, 1964, a Stipulation was entered into by the Commonwealth

of Virginia ex rel. Virginia State Bar, stipulating and consenting to the filing of an *Amicus Curiae* Brief by the American Bar Association, in support of the Petition for Rehearing. That Stipulation is being filed on the date of the filing of this Motion.

The American Bar Association further states that the Brotherhood of Railroad Trainmen, Petitioner, by Beecher Stallard, one of its Attorneys, has refused to consent to the filing of an Amicus Curiae Brief by the American Bar Association in support of Rehearing. The Brotherhood, although refusing its consent, has stated that it will not oppose a Motion for Leave to File the Amicus Brief. The American Bar Association is therefore proceeding pursuant to Rule 42, and asks Leave of Court to file an Amicus Curiae Brief in support of Rehearing.

THE INTEREST OF THE AMERICAN BAR ASSOCIATION.

The interest of the American Bar Association in this Proceeding was set forth in the original *Amicus Curiae* Brief filed by the Association on November 29, 1963. It was there pointed out, at pages 3-4, that the American Bar Association, with over 114,000 members throughout the United States, is concerned that the Legal Profession serve the Public and that it retain those characteristics which make it a Profession, namely, ethical standards of conduct with regard to the duty of a lawyer to the Court, to his client, to his fellow lawyers and to the public. The American Bar Association is concerned that these matters be presented to this Court, free of local or partisan considerations, by the one national bar association in the United States.

This Court handed down its Decision on April 20, 1964. That Decision, in the considered judgment of the American Bar Association, does severe damage to the Canons of Pro-

Professional Ethics and to the Rules of Law prohibiting the Unauthorized Practice of Law. The American Bar Association is, therefore, deeply concerned that Rehearing be granted; and that on such Rehearing, certain matters be thoroughly re-argued.

THE INTEREST OF STATE AND LOCAL BAR ASSOCIATION.

The American Bar Association, because of its interest and concern, communicated at once with all the major State and Local Bar Associations in the United States, asking whether they would consent to the use of their names in support of a request for Rehearing.

Forty-five State Bar Associations* and Four Major Local Bar Associations have replied, stating that they join with the American Bar Association in urging that the Court grant Rehearing.

Alabama State Bar

Alaska Bar Association

State Bar of Arizona

Arkansas Bar Association

State Bar of California

Connecticut Bar Association

Delaware State Bar Association

The Florida Bar

Georgia Bar Association

Bar Association of Hawaii

Idaho State Bar

Illinois State Bar Association

The Indiana State Bar Association

The Iowa State Bar Association

The Bar Association of the State of Kansas

*The Maine State Bar added its consent by telephone on May 12, 1964.

Kentucky State Bar Association

Louisiana State Bar Association

Maryland State Bar Association

Massachusetts Bar Association

State Bar of Michigan

Minnesota State Bar

The Missouri Bar *Adm Advisory Comm*

Montana Bar Association

Nebraska State Bar

State Bar of Nevada

Bar Association of the State of New Hampshire

New Jersey State Bar

State Bar of New Mexico

New York State Bar Association

The North Carolina State Bar

State Bar Association of North Dakota

Ohio State Bar Association

Oklahoma Bar Association

Oregon State Bar

Pennsylvania Bar Association

Rhode Island Bar Association

South Carolina Bar Association

The State Bar of South Dakota

Tennessee Bar Association

State Bar of Texas

Vermont Bar Association

The West Virginia State Bar

State Bar of Wisconsin

Wyoming State Bar

Association of the Bar of the City of New York

New York County Lawyers Association

Chicago Bar Association

The Bar Association of District of Columbia

It is respectfully submitted that the foregoing response to the Decision of this Court is significant and unprecedented. It is further submitted that the foregoing is not only an expression of the greatest concern over the Decision; but also a request that the Organized Bar as a whole be afforded an opportunity to present its views to this Court, on Rehearing.

It is not proposed that all the State and Local Bar Associations become parties *Amicus Curiae* in this case. The foregoing is set forth solely to bring to this Court's attention the fact that there is almost unanimous and unprecedented concern over this Decision.

If Rehearing is granted, and if the American Bar Association is permitted to participate as *Amicus Curiae*, it should be readily possible to work out adequate communication with the State and Local Bar Associations so that their views, instead of being presented separately, can be presented on their behalf by the American Bar Association.

REASONS FOR FILING OF AMICUS BRIEF.

The American Bar Association respectfully submits herewith its printed *Amicus* Brief, setting forth the reasons for Rehearing. The American Bar Association asks Leave of Court to file that Brief instantler for the reason that, as is therein discussed, this Court did not have the benefit of several crucial matters when this cause was presented.

The American Bar Association argues in its Brief that the Majority Opinion in this case severely and unnecessarily damages the Canons of Ethics and the Rules of Law prohibiting the Unauthorized Practice of Law. The Association points out specifically that this damage can be avoided, on Rehearing, by consideration of an alternative plan, which would protect the rights of Brotherhood

Trainmen without damaging the Ethics of the Legal Profession. These matters have not been urged by any other party to this cause. The American Bar Association is in a uniquely capable position to present these crucial matters to this Court.

CONCLUSION.

The American Bar Association therefore respectfully asks Leave of Court to file its *Amicus Curiae* Brief in support of the Petition for Rehearing, being filed by the Commonwealth of Virginia ex rel. Virginia State Bar. The American Bar Association most earnestly hopes that this Court will afford it the opportunity to be of service in this matter, on issues so vital to the Legal Profession.

Respectfully submitted,

FOR THE AMERICAN BAR ASSOCIATION:
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Of Counsel for This Cause.

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Dated: May 11, 1964.